

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 09-CR-043-SPF
)
LINDSEY KENT SPRINGER,)
OSCAR AMOS STILLEY,)
)
Defendants.)

UNITED STATES' PROPOSED JURY INSTRUCTIONS ON VENUE

The United States of America, by and through its attorneys, Thomas Scott Woodward, Acting United States Attorney for the Northern District of Oklahoma, and Kenneth P. Snoke, Assistant United States Attorney, and Charles A. O'Reilly, Special Assistant, United States Attorney, hereby submits the attached supplement to the venue jury instruction proposed by the Court for its consideration. The United States has no objection to the remainder of the Court's proposed jury instruction on venue, which seems to focus on the conspiracy count and aiding and abetting.

Respectfully submitted,

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ACTING UNITED STATES ATTORNEY

/s/ Kenneth P. Snoke

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INSTRUCTION NO. _____

VENUE

With respect to Counts Two, Three and Four, tax evasion is a “continuing offense” within the meaning of 18 U.S.C. § 3237(a). *See United States v. Marchant*, 774 F.2d 888, 891 (8th Cir. 1985); *United States v. Slutsky*, 487 F.2d 832, 839 (2d Cir. 1973). Therefore, venue is proper in any district in which an affirmative act of evasion took place. *Marchant*, 774 F.2d at 891; *United States v. Goodyear*, 649 F.2d 226, 228 (4th Cir. 1981); *Slutsky*, 487 F.2d at 839.

Venue for the crime of failure to file, as charged in Counts Five and Six, lies in any district in which the duty could have been performed; *United States v. Clines*, 958 F.2d 578, 583 (4th Cir. 1992); *United States v. Garman*, 748 F.2d 218, 219-221 (4th Cir. 1984); *United States v. Rice*, 659 F.2d 524, 526 (5th Cir. 1981); *United States v. Quimby*, 636 F.2d 86, 89-90 (5th cir. 1981); *United States v. Commerford*, 64 F.2d 28, 32-33 (2d Cir. 1933). Venue may lie in the judicial district in which Defendant Springer resided. *See United States v. Calhoun*, 566 F.2d 969, 973 (5th Cir. 1978).

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of November 2009, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Lindsey Kent Springer
Pro se Defendant

Oscar Amos Stilley
Pro se Defendant

Robert Williams
Standby Counsel assigned to Lindsey Kent Springer

Charles Robert Burton, IV
Standby Counsel assigned to Oscar Amos Stilley.

/s/ Kenneth P. Snoke
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